

## REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### REQUEST FOR WITHDRAWAL OF PREMATURE OFFICE ACTION

The 28 January 2008 Office Action (hereinafter, "Office Action") is respectfully noted. However, as Item 2a of Applicant's October 31, 2007 RCE Transmittal effected a **three (3) month suspension of action** lasting until January 31, 2008, it is respectfully submitted that the Office Action was **premature and improper**.

Accordingly, **Applicant again respectfully requests withdrawal of the Office Action**. The USPTO is thanked for all considerations in this regard.

## PENDING CLAIMS

Claims 1-20 and 24 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 1-20 and 24 will be pending for further consideration and examination in the application.

### REJECTION UNDER '112, 2ND PAR. OBIATED VIA CLAIM AMENDMENT

Claims 1-20 and 24 have been rejected under 35 USC '112, second paragraph, as being indefinite for the concerns listed within the section numbered "4"

on page 2 of the Office Action. Claims 1-20 and 24 have been carefully reviewed and carefully amended where appropriate in order to address the Office Action listed concerns. Of particular interest, Applicant respectfully submits the following.

As indicated at MPEP §2173.05(b), the term "substantially" may very well be used in conjunction with another term to describe a particular characteristic of the claimed invention, and such terms are definite. As one very relevant example described in the MPEP, the Court in *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988) ruled that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." Likewise, Applicant respectfully submits that the term "substantially identical" in the present application also is definite, since one of ordinary skill would know what such term means in context with Claims 1-20 and 24.

It is respectfully submitted that the Examiner's continued objection/rejection with respect to words such as "substantially" **is excessively focused on semantics, with no useful purpose being served.** Within page 5 of the premature 28 January 2008 Office Action (subject to being withdrawn), the Examiner now alleged that the term "substantially equal" was vague and indefinite because no  $\pm$  numerical values have be provided within Applicant's specification. In the aforementioned *Andrew Corp.* legal case, the District Court had rejected claims because of terms such as "approach each other", "close to", "**substantially equal**" and "closely approximate". The CAFC reversed and reprimanded the District Court by stating:

The **criticized words are ubiquitous in patent claims.** Such usages, when serving reasonably to describe the claimed subject matter to those of skill in the field of the invention, and to distinguish the claimed

subject matter from the prior art, **have been accepted in patent examination and upheld by the courts.** As this court put it in *Rosemount, Inc. v. Beckman Instruments, Inc.*, 727 F.2d 1540, 1546047, 221 USPQ 1, 7 (Fed. Cir. 1984):

Beckman attacks the claims as indefinite, primarily because “close proximity” **is not specifically or precisely defined.** As stated in the district court’s Memorandum Decision, **“to accept Beckman’s contention would turn the construction of the patent into a mere semantic quibble that serves no useful purpose.”**

...In *Seattle box Co. v. Industrial Crating & Packing*, 731 F.2d 813, 826, 221 USPQ 568, 573-74 (Fed. Cir. 1984) ...the court remarked that **“substantially equal”** is a term of degree, ...[and further the CAFC stated] ...that **an “imprecise claim limitation...” does not impart invalidity to the claims, but is to be considered in determination of infringement.**

In short, it is respectfully submitted that the Examiner’s continued objection/rejection with respect to words such as “substantially” is improper in view of the wide acceptance/usage of such type of words within patent law, and further in view of the fact that disputes regarding interpretation of such allowable imprecise claim terminology is delegated to courts during infringement trials, is not proper for causing significant delays during prosecution.

Regarding the Examiner’s indication that “substantially equal” is not explicitly found within Applicant’s specification, but that “almost equal” is, the following is respectfully submitted. More particularly, **first**, MPEP 2163 (directed to “written description” guidelines) itself, explicitly states **“...there is no in haec verba requirement...”** (i.e., “in the same words” requirement) with respect to “written description”, and continues to state simply that **“...newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure.”** MPEP 1302.02 states (in relevant part) **“...that exact terms need not be used in haec verba to satisfy the written description requirement of the first**

paragraph of 35 U.S.C. 112.” MPEP 2163 states two other guidelines of relevance to the present rejection, i.e., “To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that **one skilled in the art** can reasonably conclude that the inventor had possession of the claimed invention”, and secondly, “...**the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not have recognized in the disclosure a description defined by the claims.**”

It is respectfully submitted that, in the present situation, the Examiner **could not adequately support any 112, 1<sup>st</sup> para. rejection**, because the Applicant's claimed features/limitations are implicitly and/or inherently disclosed within Applicant's specification sufficiently for a skilled artisan to conclude possession of the invention. More particularly, original claims 2, 3, 14 and 15, for example, explicitly recite the term “**substantially identical**” with respect to applicant's “time integral values”. Webster's II New College Dictionary, copyright 1999, at page 380, quotes a definition of “**equal**” as “being the same or **identical** in value”. In view of such dictionary definition, and in view of everyday common-sense meaning, it is respectfully submitted that one skilled in the art would have abundantly/definitely considered that Applicant had possession of the “substantially equal” invention.

As a further note, attention is also directed to added independent claim 25 (substantially paralleling independent claim 1) has the original “**substantially identical**” language.

As the foregoing is believed to have addressed all '112 second paragraph concerns, reconsideration and withdrawal of the '112 second paragraph rejection are respectfully requested.

### **REJECTION UNDER 35 USC §103 - TRAVERSED**

The 35 USC §103 rejection of Claims 1-20 and 24 as being unpatentable over Okumura *et al.* (US 6,115,018 A) in view of Chen (US 5,592,193 A) is respectfully traversed. Such rejection has been made obsolete by the present clarifying amendments to the claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude further rejection of the claims.

All descriptions of Applicants disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed.

In the Office Action dated July 3, 2007, The Examiner indicates that Chen discloses an illumination unit [Fig. 3; 64] including a plurality of illumination areas [Fig. 3 64a-j] for illuminating a liquid crystal display part [Fig. 3; 62]; and an illumination control means [Fig. 3; 66] for controlling an illumination start time and an illumination "on" time of the illumination unit so that a time integral value of a transmission factor (e. g., allowing/blocking transmission of light---see Column 1, Lines 18-29) for a frame in which the transmission factor is changed due to an overshoot drive (via driver 66) is almost equal to a time integral value of a

transmission factor for a frame in which the transmission factor reaches a designated level and stays in a stable state (e. g., "ON" or "OFF" state-- -see Column 4, Line 23 - Column 6, Line 6).

Chen teaches in column 1, lines 18-29 that transmission of light is allowed in an on state and it is blocked in second state. However, this does not teach or suggest an illumination control means for controlling an illumination start time and an illumination "on" time of the illumination unit so that a time integral value of a transmission factor for a frame in which the transmission factor is changed due to an overshoot drive is substantially equal to a time integral value of a transmission factor for a frame in which the transmission factor reaches a designated level and stays in a stable state.

The following description is given in column 4, line 55 - column 5, line 6 of Chen:

The display/backlight panel synchronized driver 64 (note: "64" should be read "66") actuates each of the light-emitting zones 64a-64j in a sequential manner downwardly in the direction of arrow 74. This downward "ON" sequencing of the light-emitting zones 64a-64j is performed synchronously with the sequential actuation of the LCD panel's scanning electrode arrays.

As readily seen, this does not teach or suggest an illumination control means for controlling an illumination start time and an illumination "on" time of the illumination unit so that a time integral value of a transmission factor for a frame in which the transmission factor is changed due to an overshoot drive is substantially equal to a time integral value of a transmission factor for a frame in which the transmission factor reaches a designated level and stays in a stable state.

In addition, “ON” or “OFF” state of Chen noted by the Examiner merely indicates that of the liquid crystal.

As stated above, Chen fails to teach or suggest an illumination control means for controlling an illumination start time and an illumination “on” time of the illumination unit so that a time integral value of a transmission factor for a frame in which the transmission factor is changed due to an overshoot drive is substantially equal to a time integral value of a transmission factor for a frame in which the transmission factor reaches a designated level and stays in a stable state. Further, this feature of the present invention does not also taught by Okumura et al, as recognized by the Examiner. Therefore, it is apparent that the claimed invention should not be rejected under 103(a) as being unpatentable over Okumura et al in view of Chen.

In addition to the above, Applicant’s claims have been clarified to recite an “illumination control means, **responsive to an overshoot drive resulting in a transmittance level exceeding a predetermined designated level**, for **dynamically controlling** an illumination start time and an illumination “on” time of the illumination unit so that a time integral value of a transmission factor for an **overshoot-frame** in which the transmission factor is changed due to the overshoot drive, is substantially equal [or identical] to a time integral value of a transmission factor for a **non-overshoot frame** in which the transmission reaches a designated level and stays in a stable state. More particularly such further defines Applicant’s claimed “overshoot drive” and Applicant’s “frames”.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §103 obviousness-type rejection of Applicant’s claims.

Accordingly, reconsideration and withdrawal of such §103 rejection, and express written allowance of all of the rejected claims, are respectfully requested.

### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.



## **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR 1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 503.39221CX1) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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